

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

FREDERICK BANKS,	)	
	)	2:15cv127
Plaintiff,	)	Electronic Filing
	)	
v.	)	Judge David Stewart Cercone
	)	Magistrate Judge Lisa Pupo Lenihan
UNITED STATES MARSHALS	)	
SERVICE, <i>et al.</i> ,	)	ECF Nos. 22, 36
	)	
Defendants.	)	
	)	

**MEMORANDUM ORDER**

The Complaint in the above captioned case was filed in the Court of Common Pleas of Allegheny County, Pennsylvania on or about November 17, 2014.

Subsequently, this action was removed to this Court by Defendant, United States of America, on January 30, 2015, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Rules of Court 72.C and 72.D.

The Magistrate Judge's Report and Recommendation (ECF No.36), filed on February 24, 2016, recommended that the Motion to Dismiss the Complaint and to Strike Defendant Allegheny County Jail from the Caption (ECF No. 22), filed by Defendants Allegheny County and Rich Fitzgerald, be granted, and that the Allegheny County Jail be stricken from the caption, and the Complaint be dismissed with prejudice as to Defendants County of Allegheny and Rich Fitzgerald. Service was made on Plaintiff at his address of record via U.S. Mail, and on all counsel of record via electronic mail. The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Rules of Court, that they

had fourteen (14) days to file any objections. Plaintiff filed timely objections to the Report and Recommendation on March 8, 2016 (ECF No. 38).

After review of the pleadings and documents in the case, together with the Report and Recommendation <sup>3</sup> and objections thereto, the following Order is entered:

**AND NOW**, this 4 day of April, 2016,

**IT IS HEREBY ORDERED** that the Motion to Dismiss the Complaint and to Strike Allegheny County Jail from the Caption (ECF No. 22), filed by Defendants County of Allegheny and Rich Fitzgerald is **GRANTED**, and the Complaint is **DISMISSED WITH PREJUDICE** as to Defendants County of Allegheny and Rich Fitzgerald.

**IT IS FURTHER ORDERED** that Defendant Allegheny County Jail is stricken from the caption.

**IT IS FURTHER ORDERED** that the Report and Recommendation (ECF No. 36) of Magistrate Judge Lenihan, dated February 24, 2016, is adopted as the opinion of the Court.



David Stewart Cercone  
United States District Judge

cc: Frederick Banks  
Inmate #120759  
Allegheny County Jail  
950 Second Avenue  
Pittsburgh, PA 15219  
(Via First Class Mail)

Rebecca Ross Haywood, Esquire  
John A. Bacharach, Esquire  
(Via Electronic Mail)